MONTANA LEGISLATIVE HISTORY

Chapter 223 1993

Bill H 595 S _____ Original bill & history X C

H. Committee on FISH & GAME			S. Committee on FISH & GAME		
Hearing Date(s)	2/13	X C	Hearing Date(s) & EXEC ACTION	3/16	X C
EXEC. ACTION	2/16	X C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

CHAPTER NUMBER 341
EFFECTIVE DATE: 04/13/93

HB 593 INTRODUCED BY SCHYE

ESTABLISH SEASONAL BEER AND WINE LICENSE FOR YELLOWSTONE AIRPORT

BY REQUEST OF DEPARTMENT OF TRANSPORTATION

2/11	INTRODUCED		
2/11	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/11	FIRST READING		
2/17	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED		
2/19	2ND READING PASSED	98	0
2/22	3RD READING PASSED	98	1
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO TAXATION		
3/23	HEARING		
4/06	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/12	2ND READING CONCURRED	47	1
4/13	3RD READING CONCURRED	47	2
	RETURNED TO HOUSE WITH AMENDMENTS		
4/15	2ND READING AMENDMENTS CONCURRED	97	2
4/16	3RD READING AMENDMENTS CONCURRED	94	4
4/21	SIGNED BY SPEAKER		
4/21	SIGNED BY PRESIDENT		
4/22	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 529		
	EFFECTIVE DATE: 05/31/93		

HB 594 INTRODUCED BY LARSON

CLARIFY BEER AND WINE LICENSE TRANSFER OBLIGATIONS FOR CREDIT PURCHASES

2/11	INTRODUCED		
2/11	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/11	FIRST READING		
2/17	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED		
2/19	2ND READING PASSED	96	2
2/22	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO BUSINESS & INDUSTRY		
3/18	HEARING		
3/20	COMMITTEE REPORT—BILL CONCURRED		
3/24	2ND READING CONCURRED	50	0
3/25	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
4/02	SIGNED BY SPEAKER		
4/06	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 311		
	EFFECTIVE DATE: 10/01/93		

HB 595 INTRODUCED BY HARPER, ET AL.

REVISE JURISDICTION OF AND PENALTY FOR FISH AND GAME VIOLATIONS

BY REQUEST OF DEPARTMENT OF FISH, WILDLIFE, AND PARKS

2/11	INTRODUCED		
2/11	REFERRED TO FISH & GAME		
2/11	FIRST READING		
2/11	FISCAL NOTE REQUESTED		
2/13	HEARING		
2/15	FISCAL NOTE RECEIVED		
2/16	FISCAL NOTE PRINTED		
2/18	COMMITTEE REPORT—BILL PASSED		
2/20	2ND READING PASSED	98	2
2/23	3RD READING PASSED	96	1
	TRANSMITTED TO SENATE		
3/02	FIRST READING		
3/02	REFERRED TO FISH & GAME		
3/16	HEARING		
3/17	COMMITTEE REPORT—BILL CONCURRED		
3/18	2ND READING CONCURRED	37	8
3/19	3RD READING CONCURRED	40	7
	RETURNED TO HOUSE		
3/24	SIGNED BY SPEAKER		
3/25	SIGNED BY PRESIDENT		
3/25	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 223		
	EFFECTIVE DATE: 10/01/93		

HB 596 INTRODUCED BY WISEMAN

AUTHORIZE RECIPROCITY FOR TRUST COMPANIES

2/11	INTRODUCED		
2/11	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/11	FIRST READING		
2/17	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/22	2ND READING PASSED	92	6
2/24	3RD READING PASSED	91	8
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO BUSINESS & INDUSTRY		
3/19	HEARING		
3/24	COMMITTEE REPORT—BILL CONCURRED		
3/26	2ND READING CONCURRED	36	1
3/27	3RD READING CONCURRED	47	1
	RETURNED TO HOUSE		
3/31	SIGNED BY SPEAKER		
4/01	SIGNED BY PRESIDENT		
4/02	TRANSMITTED TO GOVERNOR		
4/07	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 290		
	EFFECTIVE DATE: 10/01/93		

HB 597 INTRODUCED BY WHALEN

PROVIDE THAT DEFENDANT IN CRIMINAL CASE MAY NOT BE ORDERED TO PAY JURY COSTS

2/11	INTRODUCED		

HOUSE BILL NO. 595

INTRODUCED BY HARPER, BRANDEWIE
BY REQUEST OF THE DEPARTMENT OF
FISH, WILDLIFE, AND PARKS

IN THE HOUSE

FEBRUARY 11, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
	FIRST READING.
FEBRUARY 18, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 19, 1993	PRINTING REPORT.
FEBRUARY 20, 1993	SECOND READING, DO PASS.
FEBRUARY 22, 1993	ENGROSSING REPORT.
FEBRUARY 23, 1993	THIRD READING, PASSED. AYES, 96; NOES, 1.
FEBRUARY 24, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 2, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
	FIRST READING.
MARCH 17, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 18, 1993	SECOND READING, CONCURRED IN.
MARCH 19, 1993	THIRD READING, CONCURRED IN. AYES, 40; NOES, 7.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 20, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

House BILL NO. 595

INTRODUCED BY Stephen Barnhart

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT GIVING JUSTICE OF THE PEACE COURTS CONCURRENT JURISDICTION WITH DISTRICT COURTS OF FISH AND GAME VIOLATIONS THAT ARE PUNISHABLE BY A FINE EXCEEDING $1,000 OR IMPRISONMENT EXCEEDING 6 MONTHS, OR BOTH; PROVIDING FOR A CIVIL, RATHER THAN A CRIMINAL, RESTITUTION PENALTY; AND AMENDING SECTIONS 3-10-303 AND 87-5-721, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-10-303, MCA, is amended to read:

"**3-10-303. Criminal jurisdiction.** The justices' courts have jurisdiction of public offenses committed within the respective counties in which ~~such~~ the courts are established as follows:

(1) jurisdiction of all misdemeanors punishable by a fine not exceeding $500 or imprisonment not exceeding 6 months, or both ~~such fine and imprisonment~~;

(2) jurisdiction of all misdemeanor violations of fish and game statutes punishable by a fine of not more than $1,000 or imprisonment for not more than 6 months, or both;

(3) concurrent jurisdiction with district courts of all misdemeanors punishable by a fine exceeding $500 or imprisonment exceeding 6 months, or both ~~such fine and imprisonment~~;

(4) concurrent jurisdiction with district courts of all misdemeanor violations of fish and game statutes punishable by a fine exceeding $1,000 or imprisonment exceeding 6 months, or both.

~~(4)~~(5) jurisdiction to act as examining and committing courts and for ~~such~~ that purpose to conduct preliminary hearings;

~~(5)~~(6) jurisdiction of all violations of Title 61, chapter 10; and

~~(6)~~(7) all misdemeanor violations of Title 81, chapter 8, part 2."

Section 2. Section 87-5-721, MCA, is amended to read:

"**87-5-721. Penalty -- license and permit revocation and denial.** (1) Except as provided in subsection (2), a person who violates a provision of this part is guilty of a misdemeanor punishable as provided in 87-1-102, and the department, upon conviction of the person, shall revoke any license or permit issued by it under this title to the person and deny any application by the person for a license or permit under this title for a period not to exceed 2 years from the date of the conviction.

HB 595 INTRODUCED BILL

(2) A person who intentionally imports, introduces, or transplants fish in violation of this part:

(a) is guilty of a misdemeanor punishable by a fine of not less than $500 ~~and--may--be--fined--up-to-the-amount necessary-to--eliminate--or--mitigate--the--effects--of--the violation~~ or more than $1,000 or imprisonment for not more than 6 months, or both; ~~and~~

(b) is civilly liable for the amount necessary to eliminate or mitigate the effects of the violation. The damages may be recovered on behalf of the public by the department or by the county attorney of the county in which the violation occurred, in a civil action in a court of competent jurisdiction. Money recovered by the department or a county attorney must be deposited in the state special revenue fund as provided in 87-1-601(1).

~~(b)~~(c) upon conviction or forfeiture of bond or bail, shall forfeit from the date of conviction or forfeiture any current hunting, fishing, or trapping license issued under this title and the privilege to hunt, fish, or trap in this state for not less than 24 months. If the time necessary to eliminate or mitigate the effects of the violation exceeds 24 months, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for more than 24 months. If the effects of the violation cannot be eliminated or mitigated, a person may be required to forfeit the

privilege to hunt, fish, or trap in this state for the lifetime of that person."

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0595, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act giving Justice of the Peace courts concurrent jurisdiction with district courts of fish and game violations that are punishable by a fine exceeding $1,000 or imprisonment exceeding 6 months, or both, and providing for a civil, rather than a criminal restitution penalty.

ASSUMPTIONS:

1. The courts will convict one person per biennium for intentionally importing, introducing or transplanting fish illegally. The civil liability to eliminate or mitigate the effects of the violation will be $1,500 per incident.

FISCAL IMPACT: The Department of Fish, Wildlife and Parks will receive $1,500 per biennium to use to eliminate or mitigate the effects of illegal introductions.

Dave Lewis 2-15-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

2-16-93

HAL HARPER, PRIMARY SPONSOR DATE

Fiscal Note for HB0595, as introduced

HB595

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By CHAIRMAN FOSTER, on February 13, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Mike Foster, Chair (R)
Rep. Chase Hibbard, Vice Chair (R)
Rep. Bob Ream, Minority Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Bob Clark (R)
Rep. Fritz Daily (D)
Rep. Jim Elliott (D)
Rep. Duane Grimes (R)
Rep. Marian Hanson (R)
Rep. Bea McCarthy (D)
Rep. Brad Molnar (R)
Rep. Bill Ryan (D)
Rep. Emily Swanson (D)
Rep. Doug Wagner (R)

Members Excused: Rep. Knox (R), Rep. Scott Orr (R)

Members Absent: None.

Staff Present: Doug Sternberg, Legislative Council
Mary Riitano, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 595, HB 576
Executive Action: None.

HEARING ON HB 576

Opening Statement by Sponsor:

REP. BILL ENDY, House District 74, Whitehall, stated HB 576 was "An act submitting to the qualified electors of Montana an amendment to Article II, Section 12, of the Montana Constitution to provide that the right to keep or bear arms extends to lawful hunting and recreational use and other lawful purposes." He felt HB 576 will help strengthen Montanan's right to bear arms.

Proponents' Testimony:

Mr. Stan Frazier, Prickley Pear Sportsman Club, declared the organization's support of HB 576.

Mr. Jim Richard, Montana Wildlife Federation, gives hunting a constitutional recognition. Constitutional Initiative 62 dealt with the distribution of the funds from the license fees and discussed the right to hunt. The language of CI 62 lead to legal concerns regarding the basic constitutional right, which might have interfered with sound game management. He related that he is pleased to support HB 576.

Mr. Stan Bradshaw, Montana Bowhunters Association, stated that in his discussions with the Department, the language of HB 576 will not impede reasonable regulation of hunting. He expressed the organization's support of the bill.

Mr. Bob Lane, Chief Legal Council for Fish, Wildlife, and Parks Department, distributed written testimony **(EXHIBIT 1)**.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor:

REP. ENDY urged passage of HB 576.

HEARING ON HB 595

Opening Statement by Sponsor:

REP. HAL HARPER, House District 44, Helena, stated that HB 595 is presented at the request of **REP. STOVALL.** He believes HB 595 will correct the court jurisdiction problem that occurred in the Lake Mary Ronan case.

Proponents' Testimony:

Mr. Bob Lane, Chief Legal Council for Fish, Wildlife, and Parks Department, distributed written testimony **(EXHIBIT 2)**.

Mr. Craig Hoppe, Montana Magistrates Association (MMA), stated he was familiar with the Lake Mary Ronan case since he is the city judge in St. Ignatius. In the State of Montana vs. Mosley case, Mosley was observed transplanting perch from Flathead Lake into Lake Mary Ronan. The Department did its best to recover most of the perch. The MMA feels the obligation to protect the resources in the state of Montana. The MMA was disappointed that the Supreme Court had overturned the whole decision. **Mr. Hoppe** said that the organization supports HB 595.

Mr. Stan Frazier, Prickley Pear Sportsman Club, declared the organization's support of HB 595.

REP. ELLIOTT expressed his support of HB 595.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. BOB REAM asked Mr. Lane if the second portion of HB 595 would apply to other animals. Mr. Lane said no. HB 595 is specific for fish. There are similar provisions in the game farm bill.

CHAIRMAN MIKE FOSTER questioned on page three, lines 13-15, "money recovered by the department or county attorney must be deposited in the state special revenue fund." He asked Mr. Lane which special revenue fund is referred to. Mr. Lane replied that it is the Department's special revenue fund. The money replaces the Department's funds used to mitigate and restore the damages.

Closing by Sponsor:

REP. HARPER felt that HB 595 was a good bill and urged its passage.

ADJOURNMENT

Adjournment: 3:20 p.m.

Mike Foster
REP. MIKE FOSTER, Chair

Mary Riitano
MARY RIITANO, Secretary

ML/MR

HOUSE OF REPRESENTATIVES

FISH & GAME COMMITTEE

ROLL CALL DATE 2/13/93

NAME	PRESENT	ABSENT	EXCUSED
VICE-CHAIRMAN CHASE HIBBARD	✓		
VICE-CHAIRMAN BOB REAM	✓		
REP. BARNHART	✓		
REP. CLARK	✓		
REP. DAILY	✓		
REP. ELLIOT	✓		
REP. GRIMES	✓		
REP. HANSON	✓		
REP. KNOX			
REP. MCCARTHY	✓		
REP. MOLNAR	✓		
REP. ORR			
REP. RYAN	✓		
REP. SWANSON	✓		
REP. WAGNER	✓		
CHAIRMAN MIKE FOSTER	✓		

EXHIBIT 2
DATE 2/13/93
HB 595

HB 595
February 13, 1993

Testimony presented by Bob Lane, Dept. of Fish, Wildlife & Parks before the House Fish and Game Committee

House Bill 595 will correct a jurisdictional defect in the authority of Justice Courts over prosecutions of certain fish and game violations. The Montana Supreme Court, in the case of Mosely v. Lake County, decided January 12, 1993, held that a Justice Court does not have jurisdiction over prosecutions for fish and game violations where the potential fine exceeds $1,000.

A county attorney could still prosecute in state District Court. However, this would have significant adverse impacts on prosecutors. The increased procedural formalities in District Court, in comparison with Justice Court, would greatly increase the workload of prosecutors for most fish and game violations that come under the Supreme Court's decision.

Under the proposed amendment, fish and game misdemeanor violations would be treated like all other misdemeanor violations. Misdemeanors, with a potential fine under a specified amount, can be prosecuted initially only in Justice Court. For misdemeanors with a potential fine over a specified amount, the prosecution can be in either Justice Court or District Court. Because of an inadvertent defect in the statute, fish and game misdemeanors with a potential fine over $1,000 can only be prosecuted in District

Court. HB 595 will correct this and allow prosecution of all fish and game misdemeanor violations in Justice Court, the same as all other misdemeanors.

The Supreme Court also questioned whether the restitution payment for illegal introductions of fish under Section 87-5-721, MCA, is allowed in a criminal sentence. The bill addresses this problem by holding violators civilly liable for the cost of eliminating or mitigating the effects of an illegal introduction of fish. The department believes that a civil action in District Court is the proper procedure, because some mitigation cost may be very high.

Illegal fish introductions are one of the most serious problems for fish management, with mitigation costs exceeding $100,000. Determining liability for costs of this magnitude is beyond the normal concept of a misdemeanor prosecution and the function of Justice Courts. A civil suit in District Court is appropriated to the potential magnitude of the liability and provides an accused with all formal safeguards of due process.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

FISH & GAME COMMITTEE BILL NO. 595

DATE 2/13/93 SPONSOR(S) Harper

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
CRAIG L. HOPPE	MT. MAGISTRATES ASSN	X	
Stan Frasier	Prickly Pear Sp't.	X	
Bob Lane	DFWP	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By CHAIRMAN FOSTER, on February 16, 1993, at 3:00 P.M.

ROLL CALL

Members Present:
Rep. Mike Foster, Chair (R)
Rep. Chase Hibbard, Vice Chair (R)
Rep. Bob Ream, Minority Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Bob Clark (R)
Rep. Fritz Daily (D)
Rep. Jim Elliott (D)
Rep. Duane Grimes (R)
Rep. Marian Hanson (R)
Rep. Dick Knox (R)
Rep. Bea McCarthy (D)
Rep. Brad Molnar (R)
Rep. Scott Orr (R)
Rep. Bill Ryan (D)
Rep. Emily Swanson (D)
Rep. Doug Wagner (R)

Members Excused: None.

Members Absent: None.

Staff Present: Doug Sternberg, Legislative Council
Mary Riitano, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 607
Executive Action: HB 576, HB 607, HB 381, HB 432, HB 338, HB 313, HB 412, HB 595, HB 341, HB 354, HB 314, HB 369

EXECUTIVE ACTION ON HB 576

Motion/Vote: REP. BOB CLARK MOVED HB 576 DO PASS. Motion carried unanimously.

and SWANSON voting yes.

Motion/Vote: REP. ELLIOTT MOVED HB 313 BE TABLED. Motion carried 15 to 1 with REP. BARNHART voting no.

EXECUTIVE ACTION ON HB 412

Motion: REP. DAILY MOVED HB 412 DO PASS.

Discussion:

REP. MOLNAR declared that there are not many things about game farms that he liked. He felt that HB 412 goes beyond game farming to a man's right to use his land as he sees fit.

Vote: ROLL CALL VOTE HB 412 DO PASS. Motion failed 11 to 5 with REPs. BARNHART, DAILY, MCCARTHY, RYAN, and SWANSON voting yes.

Motion: REP. HANSON MOVED HB 412 BE TABLED. Motion carried 15 to 1 with REP. DAILY voting no.

EXECUTIVE ACTION ON HB 595

Motion: REP. DAILY MOVED HB 595 DO PASS.

Discussion:

CHAIRMAN FOSTER asked Mr. Graham where other fines for violations typically go in the FWP Department. Mr. Graham explained that the fines are used to recover costs for mitigation or rehabilitation of the body of water. The money for mitigation or the rehabilitation would come from the general license fund. There is a direct relation between the amount of damage caused and the amount of money that will be returned to account.

REP. WAGNER asked CHAIRMAN FOSTER if he was referring to actual costs. CHAIRMAN FOSTER said yes.

REP. HANSON asked for clarification regarding the purpose of HB 595.

REP. REAM said that HB 595 deals with the penalties for a person who transplants fish. Mr. Sternberg explained that HB 595 addresses a Supreme Court decision which dealt with court jurisdiction, especially in regard to extensive damages of fish transplantation. HB 595 clarifies jurisdictional questions.

Vote: HB 595 DO PASS. Motion carried 15 to 1 with REP. ORR voting no.

EXECUTIVE ACTION ON HB 341

Motion: REP. REAM MOVED HB 341 DO PASS.

HOUSE OF REPRESENTATIVES

FISH & GAME COMMITTEE

ROLL CALL DATE 2-16-93

NAME	PRESENT	ABSENT	EXCUSED
VICE-CHAIRMAN CHASE HIBBARD	✓		
VICE-CHAIRMAN BOB REAM	✓		
REP. BARNHART	✓		
REP. CLARK	✓		
REP. DAILY	✓		
REP. ELLIOT	✓		
REP. GRIMES	✓		
REP. HANSON	✓		
REP. KNOX	✓		
REP. MCCARTHY	✓		
REP. MOLNAR	✓		
REP. ORR	✓		
REP. RYAN	✓		
REP. SWANSON	✓		
REP. WAGNER	✓		
CHAIRMAN MIKE FOSTER	✓		

HOUSE STANDING COMMITTEE REPORT

February 17, 1993

Mr. Speaker: We, the committee on Fish and Game report that House Bill 595 (first reading copy -- white) do pass .

Signed: Mike Foster

Mike Foster, Chair

Committee Vote:
Yes 15, No 1.

391404SC.Hpf

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By Senator Bob Pipinich, Chair, on March 16, 1993, at 3:00 p.m.

ROLL CALL

Members Present:
Sen. Bob Pipinich, Chair (D)
Sen. Tom Beck (R)
Sen. Don Bianchi (D)
Sen. John Brenden (R)
Sen. Chris Christiaens (D)
Sen. Bruce Crippen (R)
Sen. Gerry Devlin (R)
Sen. Judy Jacobson (D)
Sen. Terry Klampe (D)
Sen. Kenneth Mesaros (R)

Members Excused: Sen. Gary Forrester, Vice Chair (D)

Members Absent: None.

Staff Present: Valencia Lane, Legislative Council
Kathy Collins, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 381, HB 595, HB 432
Executive Action: HB 381, HB 595, HB 432

HEARING ON HB 381

Opening Statement by Sponsor:

Representative Bill Ryan, House District 38, stated HB 381 was a result of some concerns of Montana residents that personnel from Malmstrom Air Force Base were not adequately trained for hunting in Montana. HB 381 would require Malmstrom personnel to complete a hunter's safety course. Representative Ryan stated the safety course is presently available at Malmstrom, and Pat Graham, Director, Department of Fish, Wildlife & Parks (DFWP), had expressed to Representative Ryan that he would be willing to help redesign the course to meet the needs of the adult hunter with regards to etiquette, landowner/hunter relationships, species

Senator Devlin asked Mr. Lane why the Department has not seen the need for a safety course for military personnel before now. Mr. Lane stated the concerns expressed by residents of Montana about military personnel is something that has come up just recently. Mr. Lane stated the Department has not seen any more frequency of hunting violations by military personnel than by the general public. The Department does understand that people new to the state would benefit, particularly in landowner/sportsperson relationships, from a course which would address these areas of concern.

Senator Devlin asked Representative Ryan what type of program Malmstrom has at the present time, and what type of course they are planning to set up. Representative Ryan stated there are courses in place now and people to teach the courses throughout the year. Representative Ryan stated the military personnel at Malmstrom do not have to take the course because it is not in statute that the course be mandatory.

Senator Mesaros asked Representative Ryan if HB 381 would make the course mandatory and the alternative suggested by DFWP would make it voluntary. Representative Ryan said, "yes." Representative Ryan stated that while HB 381 would make the safety course mandatory, Malmstrom could design the course to fit the needs of the personnel taking the course.

Senator Crippen stated HB 381 is a good idea; the safety course should be mandatory.

Closing by Sponsor:

Representative Ryan respectfully closed and requested that Senator Mesaros carry HB 381.

HEARING ON HB 595

Opening Statement by Sponsor:

Representative Hal Harper, House District 44, stated HB 595 would clarify jurisdiction in fish and game matters. Representative Harper stated the Supreme Court has had problems with fish and game violators with penalties over $1000 not being tried in Justice of the Peace court. HB 595 would allow the Department or the county attorney to handle these violators in the appropriate court. HB 595 designates violators with penalties under $5000 be tried in Justice of the Peace court, and those with penalties over $5000 be tried in district court.

Proponents' Testimony:

Bob Lane, DFWP, spoke from prepared testimony in support of HB 595 (Exhibit #2).

Dave Ross, representing the Montana Audubon Legislative Fund, stated he supported HB 595.

Bill Holdorf, representing Skyline Sportsmen's Association, stated he supported the bill introduced two years ago which was similar to HB 595 and he supported HB 595 in its present form.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Devlin asked Representative Harper if this bill was introduced two years ago. Representative Harper stated the bill Mr. Holdorf referred to was the fish transplant bill. Representative Harper stated HB 595 was a result of that bill.

Closing by Sponsor:

Representative Harper respectfully closed on HB 595 and stated Senator Crippen would carry the bill.

HEARING ON HB 432

Opening Statement by Sponsor:

Representative Liz Smith, House District 48, stated in 1987 the Legislature transferred Montana Board of Outfitters (MBO) from the jurisdiction of the DFWP to the Department of Commerce. This transfer was largely in response to public concerns about a possible conflict of interest between an agency charged with managing the number of licenses, permits, and hunting seasons for Montana's game animals and with managing an industry that uses those permits and has an interest in licenses and seasons. The MBO has been with the Department of Commerce for five years, and over that period of time has recognized several areas needing clarification. Representative Smith stated HB 432 seeks to accomplish housekeeping kinds of things.

Proponents' Testimony:

Max Chase, Chairman of MBO, stated at the end of the 1987 Legislative Session, the MBO was told to figure out what was needed and come back to this Session to identify those needs. Mr. Chase briefly explained what happened to HB 432 in the House and stated many people were involved in coming up with HB 432 as presented to the Committee today. Mr. Chase urged the Committee's support of HB 432.

additional paperwork referred to by Mr. Strong was created by the rule-making process and the administrative body.

Closing by Sponsor:

Representative Smith stated HB 432 clarifies the standards needed with regard to license requirements, penalties and fines. Representative Smith urged the Committee's support of HB 432 and stated Senator Beck would carry the bill.

EXECUTIVE ACTION ON HB 381

Discussion:

Valencia Lane stated Representative Ryan and Bob Lane met in the hall to discuss amendments to HB 381 and both parties agreed that no amendments were needed. Ms. Lane stated the parties agree on HB 381 as written.

Senator Klampe asked if HB 381 was necessary if the alternative plan covers the needs of Malmstrom. Senator Crippen stated HB 381 would make the safety course mandatory, whereas the alternative plan would be voluntary.

Senator Bianchi stated there is nothing in the statutes to require someone to take the course.

Motion/Vote:

Senator Christiaens moved HB 381 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY with Senator Forrester voting by proxy.

EXECUTIVE ACTION ON HB 595

Motion/Vote:

Senator Crippen moved HB 595 BE CONCURRED IN. The motion CARRIED 10-1 with Senators Beck voting YES by proxy and Forrester voting NO by proxy.

EXECUTIVE ACTION ON HB 432

Motion/Vote:

Senator Devlin moved HB 432 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY with Senators Beck and Forrester voting by proxy.

ROLL CALL

SENATE COMMITTEE Fish & Game DATE 3-16-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Jacobson	✓		
Senator Bianchi	✓		
Senator Christiaens	✓		
Senator Crippen	✓		
Senator Beck	✓		
Senator Mesaros	✓		
Senator Devlin	✓		
Senator Brenden	✓		
Senator Klampe	✓		
Senator Forrester			✓
Senator Pipinich	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

March 16, 1993

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 595 (first reading copy -- blue), respectfully report that House Bill No. 595 be concurred in.

Signed: Senator Bob Pipinich

Senator Bob Pipinich, Chair

mj Amd. Coord.
rw Sec. of Senate

Senator Crippen Carrying Bill

591653SC.Sma

SENATE FISH AND GAME
EXHIBIT NO. 2
DATE 3-16-93
BILL NO. HB 595

HB 595
March 16, 1993

Testimony presented by Bob Lane, Dept. of Fish, Wildlife & Parks before the Senate Fish and Game Committee

House Bill 595 will correct a jurisdictional defect in the authority of Justice Courts over prosecutions of certain fish and game violations. The Montana Supreme Court, in the case of Mosely v. Lake County, decided January 12, 1993, agreed that a Justice Court does not have jurisdiction over prosecutions for fish and game violations where the potential fine exceeds $1,000.

A county attorney could still prosecute in state District Court. However, this would have significant adverse impacts on prosecutors. The increased procedural formalities in District Court, in comparison with Justice Court, would greatly increase the workload of prosecutors for most fish and game violations that come under the Supreme Court's decision.

Under the proposed amendment, fish and game misdemeanor violations would be treated like all other misdemeanor violations. Misdemeanors, with a potential fine under a specified amount, can be prosecuted initially only in Justice Court. However, for misdemeanors with a potential fine over a specified amount, the prosecution can be in either Justice Court or District Court. Because of an inadvertent defect in the statute, fish and game misdemeanors with a potential fine over $1,000 can only be prosecuted in District Court. HB 595 will correct this and allow

prosecution of all fish and game misdemeanor violations in Justice Court, the same as all other misdemeanors.

The Supreme Court also questioned whether the restitution payment for illegal introductions of fish under Section 87-5-721, MCA, is allowed in a criminal sentence. The bill addresses this problem by holding violators civilly liable for the cost of eliminating or mitigating the effects of an illegal introduction of fish. The present law requiring mitigation would not be changed, only the procedure is changed in the bill. The department believes that a civil action in District Court is the proper procedure, because some mitigation cost may be very high.

Illegal fish introductions are one of the most serious problems for fish management, with mitigation costs exceeding $100,000. Determining liability for costs of this magnitude is beyond the normal concept of a misdemeanor prosecution and the function of Justice Courts. A civil suit in District Court is appropriated to the potential magnitude of the liability and provides an accused with all formal safeguards of due process.

DATE 3-16-93

SENATE COMMITTEE ON Fish & Game

BILLS BEING HEARD TODAY: HB 381, HB 595, HB 432

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
JAMES O. BLOSSOM	FWP HUNTER ED	381		
GARY C. STEWART	FWP HUNTER ED	381		
Irving "Max" Olasc	Commerce Board of Affiliates	432	X	
TERRY STRONG	Self	432		X
BILL HOLDORF	SELF	381	✓	
BILL HOLDORF	SKYLINE SPORTSMEN	595	✓	
Bob Lane	DFWP	381 595	neutral ✓	
Clay Landry	MT Trout Unlimited	595	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

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